

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION DIVISION**

DARRELL BYTHER,

Plaintiff,

v.

THE VILLAGE OF UNIVERSITY PARK
AND ERNESTINE BECK-FULGHAM,

Defendants.

Case No. 23-cv-05807

The Honorable Judge Charles Kocoras

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

NOW COME DEFENDANTS, the Village of University Park and Ernestine Beck-Fulgham, by and through their attorneys, Odelson, Murphey, Frazier & McGrath, LTD., and move this Honorable Court to grant them summary judgment pursuant to Fed. R. Civ. P. 56, stating as follows in support:

1. Plaintiff's two remaining claims arise under the Family Medical Leave Act, 29 U.S.C. §2601 *et. seq.* (hereinafter the "FMLA"). Plaintiff claims Defendants interfered with his FMLA rights and retaliated against him for exercising those rights.

2. Summary judgment is appropriate if the movant shows that there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a); *Logan v. City of Chicago*, 4 F.4th 529, 536 (7th Cir. 2021). Summary judgment is proper if the nonmoving party "fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

3. Defendants are entitled to summary judgment on Plaintiff's FMLA interference claim because the undisputed material facts show Plaintiff was not entitled to take leave under the

FMLA, he did not provide sufficient notice of his leave, and Defendants did not interfere with, deny, or restrain Plaintiff's FMLA rights to which he was entitled. Moreover, Plaintiff cannot prove prejudice.

4. Defendants are entitled to summary judgment on Plaintiff's FMLA retaliation claim because Plaintiff did not qualify for FMLA leave and he was terminated for reasons unrelated to any FMLA protected activity.

5. In further support, Defendants submit their Local Rule 56.1 Statement of Facts and Memorandum of Law in Support of Summary Judgment.

WHEREFORE, for all the foregoing reasons, Defendants respectfully request that this Honorable Court grant their motion for summary judgment, enter judgment in their favor as to Counts I and II of Plaintiff's Amended Complaint, assess costs, and grant any other relief this Court deems equitable and just.

Respectfully Submitted,

**THE VILLAGE OF UNIVERSITY PARK
ERNESTINE BECK-FULGHAM**

By: /s/ Lauren M. DaValle
One of their attorneys

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